

14244

No. _____

Supreme Court of Illinois

Snell

vs.

Jaqu^oot et al

STATE OF ILLINOIS.

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SUPREME COURT.

Third Grand Division.

14244

No. 83.

Snell
vs
Jaquet

1862

Know all Men by these Presents, That we Thomas Snell

as principal, and Samuel L.

Keith as security, are held and firmly bound

unto Henry Jaquot and John Farrell for the use of Edward Power

in the penal sum of one hundred and fifty dollars good and lawful money of the United States, for the payment of which, well and truly to be made, the said We

bind ourselves our heirs, executors and administrators, jointly, severally and firmly by these Presents.

Witness, our hands & seals

this 6th day of May A. D. 1861

The Condition of the above Obligation is such, That, whereas the above named Henry Jaquot & John Farrell for the use of Edward Power

did, at the April Term of the Superior Court, of Chicago held in and for the County of Cook in the State of Illinois, A. D. 1861 recover a judgment against the above bounden Thomas Snell

for the sum of eighty six dollars

to reverse which said judgment, the said Thomas Snell

has sued out a Writ of Error from the Supreme Court, within and for the Third Grand Division of said State, which Writ of Error is made a Supersedeas. Now if the said Thomas Snell

shall duly prosecute said Writ of Error, and pay, or cause to be paid, the amount of said judgment, and all judgments, costs, interest and damages which the said Supreme Court shall adjudge against him in case said judgment shall be affirmed and abide the order and judgment of said Supreme Court in this behalf, then this obligation is to be void, otherwise to remain in full force and effect.

Samuel Keith [SEAL.]
Thomas Snell [SEAL.]

[SEAL.]

[SEAL.]

83
No. 342

SUPREME COURT,

THIRD GRAND DIVISION.

Thomas Snell

vs.

Henry Jaquet et al

SUPERSEDEAS BOND.

Filed *May 11th* 1861

L. Leland Clerk.

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State of Missouri
Cook County } es.

Thomas N. Hubbard

being duly sworn on oath says
that he is acquainted with Samuel
S. Keith of the city of Chicago in
said County State he further says
that he is acquainted with the peculiar
circumstances ^{of said Keith} that he has good reason
to believe & does believe that said
Samuel S. Keith is worth over & above
all his debts & liabilities a sum not
less than two thousand dollars &
further says not

Subscribed & sworn

to before me this 25th
day of April A.D. 1861

Th. N. Hubbard

J. C. Marcus Gay
Notary Public



342 83

Snell

vs

Jagnot Etal

affidvt of justification



Filed April 29 1861

Leland
Clark

STATE OF ILLINOIS, }
SUPREME COURT, } ss.

The People of the State of Illinois,

To the Clerk of the ~~Superior~~ ^{of Chicago} Court for the County of Cook Greeting:

Because, In the record and proceedings, as also in the rendition of the judgments of a plea which was in the ~~Superior Court~~ Court of Chicago Cook County, before the Judge thereof, between Henry Jaynot, & John Farrell for the use of Edward Power

plaintiffs and Thomas Sull

defendant....., it is said manifest error hath intervened, to the injury of the aforesaid defendant

_____ as we are informed by his _____ and we being willing that error should be corrected, if any there be, in due form and manner, and that justice be done to the parties aforesaid, command you that if judgments thereof be given, you distinctly and openly, without delay, send to our Justices of the Supreme Court the record and proceedings of the plaint aforesaid, with all things touching the same, under your seal, so that we may have the same before our Justices aforesaid at Ottawa, in the County of La Salle, on the first Tuesday after the third Monday in April next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law.

Witness, The Hon. John D. Caton, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 11th day of May in the Year of Our Lord One Thousand Eight Hundred and Sixty

L. Lelan

Clerk of the Supreme Court.
by J. B. N. Deputy

STATE OF ILLINOIS, }
SUPREME COURT, } ss.

The People of the State of Illinois,

To the Clerk of the Superior ^{of Chicago} Court for the County of Cook Greeting:

Because, In the record and proceedings, as also in the rendition of the judgments of a plea which was in the Superior Court ~~of Chicago Cook County~~, before the Judge thereof, between Henry Jaynot & John Farrell for the use of Edward Power

plaintiffs and Thomas Sull

defendant....., it is said manifest error hath intervened, to the injury of the aforesaid defendant

as we are informed by his ~~complainant~~ and we being willing that error should be corrected, if any there be, in due form and manner, and that justice be done to the parties aforesaid, command you that if judgments thereof be given, you distinctly and openly, without delay, send to our Justices of the Supreme Court the record and proceedings of the plaint aforesaid, with all things touching the same, under your seal, so that we may have the same before our Justices aforesaid at Ottawa, in the County of La Salle, on the first Tuesday after the third Monday in April next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law.

Witness, The Hon. John D. Caton, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 11th day of May in the Year of Our Lord One Thousand Eight Hundred and Sixty ~~and~~

L. Lelan

Clerk of the Supreme Court.
by J. B. N. Deputy

Thomas Snell

No. 142

vs.

Henry Jagust et al

WRIT OF ERROR.

*This Writ of Error is made a
Supersedeas, and as such is to be
obeyed by all concerned.*

L. Leland

J. B. [unclear] Deputy
Clerk.

FILED

May 11

A. D. 1867

L. Leland

Clerk.

Thomas Snell
 Plaintiff in Error
 vs
 Henry Jaquot et al us vs
 Defendants in Error

Error to the
 Superior Court
 of Chicago

Abstract of the Record

- Page of Record
- 1st Page 1. Summons issued March 18th 1861
 returnable at April Term 1861
- 2^d " 2. Summons served March 21st 1861
- 3^d " 3. Declaration filed March 27th 1861
- 1st " 4. April Term of said Court commenced
 the 1st day of April
- 7th " 5. Default taken April 4th 1861 at said
 Term
- 8th " 6. Judgment rendered April 8th 1861

Points & relied upon
 The declaration was filed in
 said cause only five days prior

to the first day of the April Term
at which the Return in said Cause
was returnable - It should have
been filed at least ten days days
prior to the first day of said term to
entitle the plaintiff (Below) to judgment
by default as judgment was rendered in this cause.

Revised Statutes page 415, Sec 13,
or Cook's Statutes page 261 Sec 13,
See also Preser Reports appendix p. 27.

Cornell White & Jameson H. White
attys for plff. & def. & mov
per J. B. Rice

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83

Thomas Snell

vs

Henry Jagnot et al

Abstract & Brief

Filed April 29, 1821

L. Leland
Clerk

Mo. for supds

Supreme Court of Illinois
April Term A.D. 1862
Third Grand Division

Thomas Snull } Error to the
Plff in error } Superior Court
 } of Chicago, in
 } Cook County
Henry Jaegnot & }
 } Defts in error } Illinois.

It is hereby stipulated and agreed by the defendants in error in the above entitled cause, that the errors assigned by said plaintiff in error shall be and they are hereby, confessed; and it is further stipulated that the judgment rendered in said cause by the said Superior Court of Chicago may be reversed and the cause remanded for trial.

April 4th 1862.

Beny Haskell
Atty for Defts in error

Levell Jannison &
Hibbard Attys
for Plff in error

⁸³
Supreme Court

342

Thomas Sull

vs

Henry Jaquob

et al

Stipulation, confess-
ing errors, and to have
judgment reversed

Filed April 4, 1862

L. Leland
Clerk

Wm. J. ...
Hibbard ...
in ...

UNITED STATES OF AMERICA,

STATE OF ILLINOIS, COUNTY OF COOK, SS.

Plas, before the Honorable, the Judges of the Superior Court of Chicago, within and for the County of Cook and State of Illinois, at a regular Term of said Superior Court of Chicago, begun and holden at the Court House, in the City of Chicago, in said County and State, on the first Monday, being the First day of April in the year of our Lord One Thousand Eight Hundred and Sixty one and of the Independence of the United States of America the Eighty fifth

Present, The Honorable John M. Nelson Chief Justice of the Superior Court of Chicago. }

Wm. H. Higgins } Judges.

Grant Goodrich }

Charles Haven Prosecuting Attorney.

Anthony L. Henry Sheriff of Cook County.

Attest, Walter Kimball Clerk.

Be it remembered that heretofore to wit on the Eighteenth day of March in the year of our Lord one thousand eight hundred and sixty one there was issued out of and under the Seal of said Court Petrus Writ of Summons in a certain suit wherein Henry Laquet and John Farrell use of Edward Power were plaintiffs and Thomas Snell, defendant; Which Summons with Sheriffs return thereon returned is in words and figures as follows to wit.

"State of Illinois }
County of Cook } ss.

The People of the State of Illinois to

The Sheriff of De Witt County greeting.

The command you that you summon
^{to} Thomas Snell if he shall be found in your County
personally to be and appear before the Superior Court of
Chicago of said Cook County on the first day of the
next term thereof to be holden at the Court House in
Chicago in said Cook County on the first Monday of
April next to answer unto Henry Dequoy & John
^{to} Barrell use of Edward Power in a plea of trespass on
the case upon promises to the damage of the said Henry
et al is paid in the sum of Two hundred dollars

And have you then and there this writ with
an endorsement thereon in what manner you shall
have executed the same.

Seal

Witness Walter Kimball Clerk of our said
Court and the Seal thereof at Chicago aforesaid
this Eighteenth day of March A. D. 1861.
W. Kimball - Clerk."

(Endorsed)

" I duly served this Summons
by reading the same to ^{to} Thomas Snell this the
21st day of March A. D. 1861.

Sheriff fees \$1.00 B. Campbell - Sheriff"
" Filed March 30th 1861
W. Kimball. Secy."

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And thereafter to wit on the Twenty seventh day
of March A. D. Eighteen hundred and sixty one
the said Plaintiffs by their Attorney filed in the Office
of the Clerk of said Court their Declaration in said
cause; Which Declaration with the account thereupon
due is in the words and figures following to wit

" State of Illinois } Superior Court of Chicago
Cook County ... } S. Of the April Term A. D. 1861.

Henry August and John Farrell
plaintiffs who bring this suit for the use of Edward
Powers by Benj. Haskell their Attorney complain of
Thomas Sells of Clinton in the County of De Witt and
State of Illinois, defendant in this suit, who is
summoned to answer the Plaintiffs of a Plea of trespass
on the case on promises,

For that whereas the said defendant heretofore to
wit on the third day of March in the year of our
Lord one thousand eight hundred and fifty nine at
Chicago in said County of Cook became and was
indebted to the said Plaintiffs in the sum of One
hundred dollars of lawful money of the United States
of America for divers goods wares and Merchandises by
the said Plaintiffs before that time sold and delivered to
the said Defendant and at the special instance and
request of the said Defendant and being so indebted to
the said Plaintiff, the said Defendant in consideration thereof
afterwards to wit on the same day and year and at the

place aforesaid undertook and then and there faithfully promised the said Plaintiffs well and truly to pay unto the said Plaintiffs the sum of money last mentioned when the said Defendant should be therunto afterwards requested.

And whereas also the said Defendant afterwards to wit, on the same day and year and at the place aforesaid in consideration that the said Plaintiff had before that time at the like special instance and request of the said Defendant sold and delivered to the said Defendant divers other goods wares and Merchandizes of the said Plaintiffs the said Defendant then and there undertook and faithfully promised the said Plaintiffs that the said Defendant would well and truly pay to the said Plaintiffs so much money as the last aforesaid goods wares and Merchandizes at the time of the Sale and delivery thereof were reasonably worth, when the said Defendant should be therunto afterwards requested; and the said Plaintiffs aver that the said goods, wares & Merchandizes last mentioned, at the time of the Sale and delivery thereof, were reasonably worth the further sum of One hundred dollars of like lawful money as aforesaid, to wit, at the place aforesaid, whereof the said Defendant afterwards on the same day and year and at the place aforesaid had notice.

And whereas also the said defendant afterwards to wit on the same day and year and at the place aforesaid

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was indebted to the said Plaintiff in the further sum of
One hundred dollars of his lawful money as aforesaid for
money before that time lent and advanced to by the said
Plaintiff to the said Defendant and at the like request
of the said Defendant And in the like sum for other
money by the said Plaintiff before that time paid laid
out and expended for the said Defendant and at the
like request of the Defendant And in the like sum for
other money by the said Defendant before that time had
and received to and for the use of the said Plaintiff And
in the like sum for other money before that time and
then due and owing the said Plaintiff for interest upon
and for the forbearance of divers other sums of money
before that time and then due and owing from said
Defendant to said Plaintiff And in the like sum for
his price and value of work then done and material
for the same provided by the Plaintiff for the Defendant
and at the like request of the Defendant And being
so indebted the said Defendant in consideration thereof
afterwards to wit on the same day and year and at the
place aforesaid undertook and then and there faithfully
promised the said Plaintiff well and truly to pay unto
the said Plaintiff the several sums of money in this
Count mentioned when the said Defendant should be
thereunto afterwards requested.

Also whereas also the said defendant afterwards to
wit on the same day and year and at the place aforesaid
accounted together with the said Plaintiff of and concerning

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divers other sums of money before that time due and owing from the said Defendant to the said Plaintiff and then and there being in arrears and unpaid and upon such accounting the said Defendant then and there was found to be in arrears and indebted to the said Plaintiff in the further sum of One hundred dollars of his lawful money as aforesaid And being so found in arrears and indebted to the said Plaintiff and the said Defendant in consideration thereof afterwards to wit on the same day and year and at the place aforesaid undertook and then and there faithfully promised the said Plaintiff well and truly to pay unto the said Plaintiff the said sum of money last mentioned which the said defendant should be hereunto afterwards requested.

Nevertheless the said Defendant (although often requested &c) has not yet paid the several sums of money above mentioned or any or either of them, or any part thereof to the said Plaintiff, but to pay the same or any part thereof to the said Plaintiff, the said defendant has hitherto altogether refused and still does refuse to the damage of the said Plaintiff in the sum of Two hundred dollars and therefore the said Plaintiff brings suit - &c

Benj. Haskell - Plaintiff's Attorney.

(Copy of the account sued on)

Wm. H. Sibley

Chicago, March 30 1859.

To Henry August & John Farrell Esq

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To carving four large door knobs ornaments
 \$9 each \$ 36
 " " \$5 " \$ 25
 " " and stuff in course of execution \$ 25
 \$ 86

" Thomas Snelo
 To Laquet & Jarrell D.V.

To money lent and advanced \$ 100
 To money paid laid out and expended \$ 100
 To money given & received to and for the use of Plaintiff . . \$ 100
 To goods wares and Merchandises sold and delivered . . \$ 100
 To labor and services \$ 100
 To balance due on account stated \$ 100

✓

And afterwards to wit on the fourth day of April
 (being one of the days of the April term of said Court)
 A. D. Brighten himself and others on the following
 proceedings were had in said cause and entered of
 record in said Court to wit

" Henry Laquet and John
 Jarrell vs of Edward Powers
 vs
 Thomas Snelo Assumpsit

This day comes the said
 Plaintiffs who sue for use of Edward Powers by B
 Haskell their Attorney and due personal service of
 process of Summons issued in said cause having been

had on the said defendant and being three times solemnly called in open Court came not nor does any person for him but herein he makes default which is in Motion ordered to be taken and is hereby entered of record. Wherefore the said Plaintiffs ought to have and recover of and from the said Defendant for use of Edward Pinner their damages sustained herein by reason of the premises. And thereupon reference is had to the Court to assess damages herein hereafter.

And afterwards to wit on the Eighth day of April (being yet of the said April term of said Court) A.D. Eighteen hundred and sixty one, the following further proceedings were had in said cause and entered of record in said Court to wit:

" Henry Laquois and John	}	Assumpsit
Parrells use of Edward Pinner		
vs		
<u>Thomas Snelo</u>		

And now again comes the said Plaintiffs who sue for the use of Edward Pinner by B. Parrells their Attorney and default of the said Defendant having been taken and entered of record heretofore herein and the Court now here after hearing allegations and proofs submitted by the said Plaintiffs and being fully advised in the premises assesses their damages herein to the sum of

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Eighty six dollars.

Therefore it is considered that the said Plaintiffs do have and recover of and from the said Defendants for the use and benefit of Edward Power their damages of eighty six dollars in form aforesaid assessed and also their costs and charges in this behalf expended and there of have execution

And whereas on the 9th April 1861 execution issued in said Judgment to the Sheriff of De Witt Co -

State of Illinois
Cook County . . .



I Walter Kimball Clerk of the Superior Court of Chicago within and for the County of Cook in the State of Illinois Do hereby Certify the above and foregoing to be a true and perfect Transcript of the Process and Declaration now on file in my office together with the Order entering default - and the Judgment entered of record in said Court in a certain suit therein wherein Henry Jaquet and John Farrell vs of Edward Power were Plaintiffs and Thomas Snell Defendant

In testimony whereof I have hereunto set my hand and affixed the Seal of said Superior Court at Chicago in said County the twenty fifth day of April A. D. 1861.

Walter Kimball Clerk

Supreme Court of Illinois
April Term A.D. 1861
Third Grand Division

Thomas Snell
Plaintiff in Error } Error to
vs } Superior Court
Henry Jagnot et al use &c } of Chicago
Defendants in Error

Assignment of Errors

And now at this day comes the said plaintiff in Error by Cornell James & Howard his attorneys and assigns the following Causes of Error to wit

1. The Court Erred in rendering judgment against the defendant below by default at the April Term of said Superior Court of Chicago, the Summons having been made returnable at said term last named and the declaration having been filed only five days prior to the first day of said term and not ten days prior as required by law and there being no appearance or consent of said defendant below

2. The Court Erred in not ordering
said Cause to be continued until
the term next succeeding the said
April term of said Superior Court
of Chicago

3. The Court Erred in rendering
or giving judgment against the said
defendant below

Cornell Jameson & Hibbard
For plaintiff in error

Supreme Ct & U.S.
Third Gr. Div

Thomas Snell

Pf. in Ev.

vs

Henry Jaquot et al
Dft in Ev.

Assignment of Errors

Filed May 2 1861

L. Ireland
Clerk

Cornell Jamesworth Brad
att'y for Pf in Ev

Chicago

242 83
State of Illinois
Cook County

Herry Jaquot Et al
vs
Thomas Snell

vs

Thomas Snell

Transcript.

Filed April 29 1881
L. Leland
Clerk

Fee
\$3⁰⁰/₁₀₀ paid of [unclear]